

ARKANSAS SUPREME COURT

No. CR 06-827

ORVIL DALE LOFTIS
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered March 1, 2007

APPEAL FROM THE CIRCUIT COURT
OF JACKSON COUNTY, CR 2003-38,
HON. HAROLD S. ERWIN, JUDGE

AFFIRMED.

PER CURIAM

In 2003, appellant Orvil Dale Loftis entered a plea of guilty to two felony counts of possession of a controlled substance with intent to deliver, misdemeanor possession of a controlled substance, and misdemeanor possession of an instrument of crime. The court suspended imposition of sentence. In 2005, the court granted a petition filed by the state to revoke the suspended imposition of sentence on the ground that appellant had failed to comply with the conditions agreed on when he entered the plea. The court imposed an aggregate sentence of 480 months' imprisonment. A fine of \$2,500.00 was also imposed. The Arkansas Court of Appeals affirmed the revocation. *Loftis v. State*, CACR 05-438 (Ark. App. Dec. 7, 2005).

On June 7, 2006, appellant filed in the trial court a motion for reconsideration of a petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1. The motion was denied on June 28, 2006, and appellant brings this appeal.

The original Rule 37.1 petition filed by appellant does not appear in the record lodged in this appeal. Appellant makes reference to it as having been timely filed and contends that it was

erroneously dismissed by the court on May 15, 2006, as having been untimely. No appeal from the order dismissing the original petition was perfected in this court, and thus the issue of whether it was timely filed is not an issue in this appeal. While appellant raises a number of points for reversal in his brief related to the merits of the original petition, the sole issue before us is whether the court erred in denying the motion for reconsideration.

Rather than filing a notice of appeal and proceeding with an appeal of the order disposing of the original petition, appellant elected to file a motion for reconsideration. Arkansas Rule of Criminal Procedure 37.2(d), however, provides that the decision of the court in any proceeding under the rule is final when the judgment is entered and that no petition for rehearing shall be considered.¹ Accordingly, pursuant to Rule 37.2(d), the circuit court lacked jurisdiction to address the allegations contained in the motion for reconsideration. *Shoemate v. State*, 339 Ark. 403, 407 S.W.3d 446 (1999) (*per curiam*). While the court did not dispose of the motion for reconsideration on jurisdictional grounds, it did not have jurisdiction to consider the claims raised in the motion, and appellant was not entitled to the relief sought. As the court reached the right decision, albeit for the wrong reasons, we affirm the order. *Jones v. State*, 347 Ark. 409, 64 S.W.3d 728 (2002).

Affirmed.

¹A petitioner under the rule may file a motion seeking a ruling on a specific issue raised in the petition and not addressed by the court in its order. *Matthews v. State*, 333 Ark. 701, 970 S.W.2d 289 (1998) (*per curiam*). The motion for reconsideration filed by appellant in the instant appeal did not seek a ruling on an omitted issue.